

REMARKS

Claims 1-54 were presented for examination, and claims 1-54 were rejected. In the current amendment, claims 1, 15, 26, 29, and 36 have been amended. No new matter has been introduced. Upon entry of the current amendment, claims 1-54 will be presently pending in this application, of which claims 1, 15, 26, 36, 41, 47, and 54 are independent. Applicant submits that pending claims 1-54 are in condition for allowance.

The following comments address all stated grounds of rejection. Applicant urges the Examiner to pass the claims to allowance in view of the remarks set forth below.

Replacement Drawings

Applicant hereby submits replacement Figures 6, 7, 12, and 16A-16C that were inadvertently missing from the papers filed on February 22, 2002. No new matter has been introduced.

Claim Objection

Claim 29 is objected to because of informalities with the spelling of the term canceling. Claim 29 is hereby amended to address these informalities. Applicant submits claims 29 is in condition for allowance.

Claim Amendments

Claim 29 is hereby amended to address informalities as objected to by the Examiner. Claims 1, 15, 26, and 36 have been amended to address the Examiner's 35 U.S.C. §112 rejection as discussed below. No new matter has been introduced. Applicant submits that the presently pending claims are in condition for allowance.

AMENDMENTS TO THE DRAWINGS

The Examiner objected to the drawings because replacement Figures 6, 7, 12, and 16A-16C were inadvertently missing from the papers filed on February 22, 2002.

Replacement Figures 6, 7, 12, and 16A-16C are submitted herewith addressing this objection.

Claim Rejections Under 35 U.S.C. §112**I. Claims 1-40 Rejected Under 35 U.S.C. §112, Second Paragraph**

Claims 1, 15, 26, and 36 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claiming the subject matter which Applicant regards as his invention. Claims 2-14, 16-25, 27-35, and 37-40 are rejected under 35 U.S.C. §112, second paragraph, because of their dependency on claims 1, 15, 26, and 36 respectively. Applicant respectfully traverses this rejection and submits that claims 1, 15, 26, and 36, as amended, particularly point out and distinctly claim the invention.

The Examiner rejects independent claims 1, 15, 26, and 36 under 35 U.S.C. §112, second paragraph, because the Examiner indicates that the preamble of “In an electronic device, a method, comprising the steps of:” is unclear whether the “electronic device” or “a method” comprises the steps. The Examiner also indicates that the phrase “in an electronic device, a method” does not make sense. Applicant respectfully disagrees with the Examiner and contends that one ordinarily skilled in the art can ascertain with a reasonable degree of clarity and particularity the preamble of claims 1, 15, 26, and 36. Nevertheless, Applicant amends claims 1, 15, 26, and 36 to clarify the scope of the Applicant’s claimed invention.

In light of the aforementioned amendment, claims 1, 15, 26, and 36 particularly point out and distinctly claim the subject matter to which the Applicant regards as his invention. Claims 2-14 depend on and incorporate the patentable subject matter of amended claim 1. Claims 16-25 depend on and incorporate the patentable subject matter of amended claim 15. Claims 27-35 depend on and incorporate the patentable subject matter of amended claim 26, and claims 37-40 depend on and incorporate the patentable subject matter of amended claim 36. Therefore, Applicant respectfully requests the Examiner to withdraw the rejection of claims 1-40 under 35 U.S.C. §112.

Claim Rejections Under 35 U.S.C. §103

II. Claims 1-54 Rejected under 35 U.S.C. §103

Claims 1-54 are rejected under 35 U.S.C. §103 as unpatentable over U.S. Publication No. 2003/0229529 to Mui (“Mui”) in view of U.S. Patent No. 6,601,016 to Brown (“Brown”). Applicant respectfully traverses this rejection.

For ease of the discussion, summaries of the claimed invention and the Mui and Brown references are provided below.

A. Summary of Claimed Invention

The claimed invention is directed towards a fitness enabling and motivating service which enables participants to find a well-matched partner or “fitpal” for participating in a fitness activity. The service may be accessible via an online site, such as a web site on the Internet. The partners may be matched by skill level, locale, age, gender, and other criteria. A participant may specify the matching criteria and submit a search to identify well-matched potential fitness partners. As such, one participant may be matched with another participant by specified criteria to schedule and participate in a fitness activity.

The fitness enabling and motivating service may also enable a participant to send an invitation, such as by email or instant messaging, to one or more other parties to schedule a fitness activity. Invitations may be accepted or declined. For accepted invitations, the activity is added to respective schedules of the participants which are maintained online with online services for schedule reminders, and canceling or rescheduling the fitness activity. Participants are also able to send messages to each others. Additionally, participants can provide feedback regarding fitness activities and other fitness activity participants. This information may be available online for other parties to use while scheduling fitness activities.

B. Summary of Mui

Mui is directed towards systems and methods for enterprise workforce planning via a business systems platform used to integrate disparate business applications systems in an efficient manner across multiple hardware platforms. Mui provides a system for identifying one or more persons from a group of persons, such as one or more employees of a company, to utilize in achieving a goal, such as a business goal of the company. Each person may have a record indicating his or her competencies and competency levels with regards to business related skills and knowledge. A desired goal profile is created representing a goal to be achieved in terms of the competencies and competency levels of the types of persons needed to achieve the business goal. The competency records of persons can be searched and compared to the competencies associated with the desired goal profile to determine one or more persons that may be utilized in achieving the goal. That is, the competency records of persons are searched to find records matching the competencies required by the desired goal profile.

C. Summary of Brown

Brown is directed towards systems and method for monitoring fitness activities across exercise machines via a universally accessible server system. A particular exercise machine monitoring device monitors exercise performed by a particular user on a particular exercise machine. Fitness indicators monitored by the machine monitoring device are transmitted to a server to be stored and associated with the particular user. The monitoring device may include a pulse monitor, a distance meter, a rate monitor, a time monitor, a strain gauge, an accelerometer or any other sensor for measuring fitness indicators of physical activity of a user on a piece of fitness equipment. Brown may store on the server cumulative real-time

fitness activity of a particular user over a certain period of time along with individual sessions of fitness activity.

D. Patentability of Independent Claims 1 and 41

Independent claims 1 and 41 are directed to a method and medium claim respectively. These independent claims recite a method for providing user profiles regarding users and fitness activities of the users, and examining the user profiles to *match at least two selected ones of the users for a scheduled fitness activity*.

Mui in view of Brown does not teach or suggest examining the user profiles to *match at least two selected ones of the users for a scheduled fitness activity*. Rather, as discussed above, Mui is concerned with finding users of a certain competency that meet the competency level requirements of a desired business goal. In contrast to the claimed invention, Mui does not match one user to another user for a scheduled fitness activity. Instead, users of Mui are matched with a competency and competency level of a desired business goal. Thus, Mui does not match one user with another user for a scheduled fitness activity as in the claimed invention. Therefore, Mui fails to teach or suggest examining the user profiles to *match at least two selected ones of the users for a scheduled fitness activity*.

In the Office Action, the Examiner admits that Mui does not teach matching users for a scheduled fitness activity. The Examiner cites Brown for the purpose of suggesting one ordinarily skilled in the art might modify Mui to match users for a scheduled fitness activity. However, Brown does not teach or suggest examining the user profiles to *match at least two selected ones of the users for a scheduled fitness activity*. Brown provides for monitoring fitness indicators on fitness equipment and storing the fitness indicators on a server. Brown does not discuss matching one user with another user for a scheduled fitness activity. Rather,

Brown is concerned with monitoring and recording the fitness indicators of a particular user. Thus, Brown fails to bridge the factual deficiencies of the Mui reference.

Furthermore, there must be motivation or suggestion in the references or in the knowledge of one ordinarily skilled in the art to modify Mui in view of Brown. In the Office Action, the Examiner indicates one ordinarily skilled in the art might modify Mui in view of Brown to apply Mui to a different field related to fitness activity. Applicant respectfully disagrees with the Examiner and submits that there is no suggestion or motivation in the references of Mui and Brown, or in the knowledge of one ordinarily skilled in the art to combine Mui in view of Brown.

Mui is directed towards a workforce planning tool that utilizes employees by competency and competency levels to accomplish a desired business goal of a company. In contrast, Brown is directed towards a fitness monitoring system for monitoring and storing fitness indicators of a particular user's performance on a piece of fitness equipment. Nowhere in Mui or Brown is there a suggestion or motivation to combine a workforce planning tool with a fitness equipment monitoring system. Contrary to the Examiner's contention, Mui does not teach or suggest applying Mui to a different field, such as a fitness activity. Furthermore, one ordinarily skilled in the art would not find a suggestion or motivation to combine an enterprise workforce planning platform of Mui with a fitness equipment monitoring system of Brown. Thus, there is no suggestion or motivation in the references of Mui and Brown, or in the knowledge of one ordinarily skilled in the art to combine Mui in view of Brown.

For at least the aforementioned reasons, Mui in view of Brown fails to teach or suggest examining the user profiles to *match at least two selected ones of the users for a scheduled fitness activity*. Claims 2-14 depend on and incorporate all the patentable limitations of independent claim 1. Claims 42-46 depend on and incorporate all the

patentable limitations of independent claim 41. Thus, Mui in view of Brown fails to detract from the patentability of claims 2-14 and 42-46. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the Examiner's rejection of claims 1-14 and 41-46 under 35 U.S.C. §103.

E. Patentability of Independent Claims 15 and 47

Independent claims 15 and 47 are directed to a method and medium claim respectively. These independent claims recite a method for providing a user interface that enables *a user to request a suitable partner for a fitness activity*, conducting a search of candidate partners to locate a suitable partner, and returning to the user a list of any suitable partners.

Mui in view of Brown does not teach or suggest for providing a user interface that enables *a user to request a suitable partner for a fitness activity*. Rather, Mui is concerned with a user interface for finding users of a suitable competency and competency level for utilizing to accomplish a desired business goal. In contrast to the claimed invention, Mui does not provide a user interface to enable a user to request a suitable fitness activity partner for the user. Instead, Mui provides a user interface to match employees with a business goal profile according to competency and competency level. Thus, the user interface of Mui does not request a partner that is suitable with a user for a fitness activity. Therefore, Mui fails to teach or suggest providing a user interface that enables *a user to request a suitable partner for a fitness activity*.

In the Office Action, the Examiner admits that Mui does not teach requesting a suitable partner for a fitness activity. The Examiner cites Brown for the purpose of suggesting one ordinarily skilled in the art might modify Mui to request a suitable partner for a fitness activity. However, Brown does not teach or suggest providing a user interface that

enables *a user to request a suitable partner for a fitness activity*. Brown provides for monitoring fitness indicators on fitness equipment and storing the fitness indicators on a server. Brown does not discuss providing a user interface that enables *a user to request a suitable partner for a fitness activity*. Rather, Brown provides an output interface of a monitoring device to provide information relative to the particular user and the monitoring of fitness indicators. Thus, Brown fails to bridge the factual deficiencies of the Mui reference.

For at least the aforementioned reasons, Mui in view of Brown fails to teach or suggest providing a user interface to enable *a user to request a suitable partner for a fitness activity*. Claims 16-25 depend on and incorporate all the patentable limitations of independent claim 15. Claims 48-53 depend on and incorporate all the patentable limitations of independent claim 47. Thus, Mui in view of Brown fails to detract from the patentability of claims 16-25 and 48-53. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the Examiner's rejection of claims 15-25 and 47-53 under 35 U.S.C. §103.

F. Patentability of Independent Claim 26

Independent claim 26 is directed towards a method performed in a computer system providing a web site including a matching facility and a scheduling facility. The matching facility identifies persons that are well-matched to a first user for a particular type of fitness activity. The scheduling facility schedules fitness activities among persons. The claimed invention uses the matching facility *to identify at least one person that is well-matched to the user for a first type of fitness activity*, and uses the scheduling facility to schedule a first event of the first type of fitness activity between participants, including the first user and the well-matched person.

Mui in view of Brown does not teach or suggest *identifying at least one person that is well-matched to the user for a first type of fitness activity*. Rather, Mui is concerned with finding a person that is matched with a competency and competency level requirement defined in a business goal profile. In contrast to the claimed invention, Mui does not identify a person that is well-matched to the user for a first type of fitness activity. Instead, a person of Mui is matched with a business goal according to the competencies and competency levels of the person. Thus, Mui does not identify a person that is well-matched to a user for a fitness activity. Therefore, Mui fails to teach or suggest *identifying at least one person that is well-matched to the user for a first type of fitness activity*.

In the Office Action, the Examiner admits that Mui does not teach *identifying at least one person that is well-matched to the user for a first type of fitness activity*. The Examiner cites Brown for the purpose of suggesting one ordinarily skilled in the art might modify Mui to identify at least one person that is well-matched to the user for a first type of fitness activity. However, Brown does not teach or suggest *identifying at least one person that is well-matched to the user for a first type of fitness activity*. Instead, Brown provides for monitoring fitness indicators on fitness equipment and storing the fitness indicators on a server. Brown does not discuss *identifying at least one person that is well-matched to the user for a first type of fitness activity*. Rather, Brown is concerned with monitoring and recording the fitness indicators of a particular user. Thus, Brown fails to bridge the factual deficiencies of the Mui reference.

For at least the aforementioned reasons, Mui in view of Brown fails to teach or suggest *identifying at least one person that is well-matched to the user for a first type of fitness activity*. Claims 27-35 depend on and incorporate all the patentable limitations of independent claim 26. Thus, Mui in view of Brown fails to detract from the patentability of

claims 27-35. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the Examiner's rejection of claims 26-35 under 35 U.S.C. §102.

G. Patentability of Independent Claims 36 and 54

Independent claims 36 and 54 are directed to a method and medium claim respectively. These independent claims recite a method for *prompting a participant in a fitness activity for feedback regarding a selected participant in the fitness activity*. In response to the prompting, the feedback regarding the selected participant is obtained. The method makes information regarding the feedback available to parties that are considering scheduling a fitness activity with the selected participant.

Mui in view of Brown does not teach or suggest *prompting a participant in a fitness activity for feedback regarding a selected participant in the fitness activity*. Rather, Mui is concerned with obtaining employee performance reviews with respect to an employee's competency levels and progress towards assigned business goals. In contrast to the claimed invention, Mui does not obtain feedback about a participant in a fitness activity from another participant in the fitness activity. Instead, in Mui, employees are rated by feedback providers, such as managers, peers, direct reports, and customers, to provide ratings on competency levels and achievement of business goals. Thus, Mui fails to teach or suggest *prompting a participant in a fitness activity for feedback regarding a selected participant in the fitness activity*.

In the Office Action, the Examiner admits that Mui does not teach *prompting a participant in a fitness activity for feedback regarding a selected participant in the fitness activity*. The Examiner cites Brown for the purpose of suggesting one ordinarily skilled in the art might modify Mui to prompt *a participant in a fitness activity for feedback regarding a selected participant in the fitness activity*. However, Brown does not teach or suggest a

participant in a fitness activity for feedback regarding a selected participant in the fitness activity. Brown provides for monitoring fitness indicators on fitness equipment and storing the fitness indicators on a server. Brown does not discuss obtaining feedback about a participant in a fitness activity from another participant in the fitness activity. Rather, Brown is concerned with providing feedback to a particular user from feedback indicators from fitness equipment monitored via monitoring devices. Thus, Brown fails to bridge the factual deficiencies of the Mui reference.

For at least the aforementioned reasons, Mui in view of Brown fails to teach or suggest prompting *a participant in a fitness activity for feedback regarding a selected participant in the fitness activity.* Claims 37-40 depend on and incorporate all the patentable limitations of independent claim 36. Thus, Mui in view of Brown fails to detract from the patentability of claims 37-40. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the Examiner's rejection of claims 36-40 under 35 U.S.C. §103.

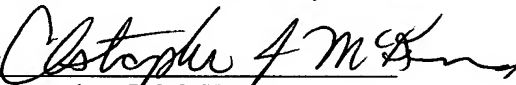
CONCLUSION

In view of the remarks set forth above, Applicant contends each of the presently pending claims in this application is in immediate condition for allowance. Accordingly, Applicant respectfully requests the Examiner to pass the claims to allowance.

If the Examiner deems there are any remaining issues, we invite the Examiner to call the Applicant's Attorney at the telephone number identified below.

Dated: April 27, 2005

Respectfully submitted,
LAHIVE & COCKFIELD, LLP

By 
Christopher J. McKenna
Registration No.: 53,302
Attorney For Applicant

Lahive & Cockfield, LLP
28 State Street
Boston, Massachusetts 02109
(617) 227-7400
(617) 742-4214 (Fax)